

JS-6

1  
2  
3  
4  
5  
6  
7  
8 **UNITED STATES DISTRICT COURT**  
9 **CENTRAL DISTRICT OF CALIFORNIA**

10 LOS ANGELES WATERKEEPER, a  
11 California non-profit association,

12 Plaintiff,

13  
14 v.

15 OWENS CORNING,

16  
17 Defendant.  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28

Case No. 2:24-cv-00880-JLS-E

**CONSENT DECREE**

**CONSENT DECREE**

**WHEREAS**, Plaintiff Los Angeles Waterkeeper (“LA Waterkeeper” or “Plaintiff”) is a 501(c)(3) non-profit public benefit corporation organized under the laws of the State of California, with its main office in Los Angeles, California;

**WHEREAS**, LA Waterkeeper is dedicated to the preservation, protection and defense of the surface, ground, coastal and ocean waters of Los Angeles County from all sources of pollution and degradation;

**WHEREAS**, Defendant OWENS CORNING (“Defendant”) owns and operates a facility a 1501 North Tamarind Avenue, in Compton, California, under Waste Discharger Identification number 4 19I003711 (“Facility”);

**WHEREAS**, the Facility’s industrial activities consist of manufacturing roofing products. The Facility is categorized under Standard Industrial Classification (“SIC”) Code 2952, covering (“Asphalt Felts and Coatings”) and SIC Code 2951 (“Asphalt Paving Mixtures and Blocks”);

**WHEREAS**, storm water discharges associated with industrial activity at the Facility are regulated by the National Pollutant Discharge Elimination System (“NPDES”) General Permit No. CAS000001 [State Water Resources Control Board], Water Quality Order 2014-0057-DWQ, as amended by Order Nos. 2015-0122-DWQ and 2018-0028-DWQ (“General Permit” or “Permit”)<sup>1</sup>, and the Federal Water Pollution Control Act, 33 U.S.C. §§ 1251, *et seq.* (“Clean Water Act” or “CWA”), Sections 301(a) and 402, 33 U.S.C. §§ 1311(a), 1342;

**WHEREAS**, Defendant’s operations at the Facility result in discharges of pollutants into waters of the United States and are regulated by the Clean Water Act

---

<sup>1</sup> Any references to the “General Permit” or “Permit” herein shall be to the then-effective version, regardless of whether such changes are the result of amendments, revisions, reissuance, or similar modification of material terms. Any reference in this Consent Decree to specific sections or subsections of the General Permit that are moved, modified, or otherwise changed in a subsequent version of the General Permit shall be to such subsequent reference(s) as if set forth herein, *e.g.*, the current §XI.B.6.c may be renumbered as §XI.B.7.c, combined into the current §XI.B.6.d, or split into a new §XI.B.6.c and §XI.B.6.d.

1 Sections 301(a) and 402. 33 U.S.C. §§ 1311(a), 1342;

2       **WHEREAS**, the General Permit requires all permittees, including Defendant,  
3 to comply with, inter alia, the following mandates: (1) develop and implement a  
4 storm water pollution prevention plan and a storm water monitoring implementation  
5 plan, (2) control pollutant discharges using, as applicable, best available technology  
6 economically achievable or best conventional pollutant control technology to prevent  
7 or reduce pollutants through the development and application of Best Management  
8 Practices, which must be detailed in and timely updated in the SWPPP, (3) reduce  
9 and eliminate discharges necessary to comply with any and all applicable Water  
10 Quality Standards, and (4) implement a monitoring and reporting program, including  
11 the MIP, designed to assess compliance with the Permit;

12       **WHEREAS**, on June 16, 2022, the California Regional Water Quality Control  
13 Board, Los Angeles Region (“Regional Board”) issued Time Schedule Order  
14 (“TSO”) No. R4-2022-0015 pursuant to California Water Code sections 13300 and  
15 13385(j)(3), requiring Defendant to comply with certain requirements stated in the  
16 TSO to ensure compliance with effluent limitations for total zinc and total copper  
17 contained in the General Permit. The TSO requirements include the installation of  
18 filtration and treatment systems at the Facility to enable Defendant to achieve  
19 compliance with zinc and copper effluent limitations by December 31, 2024. The  
20 TSO further set interim effluent limitations for total zinc and total copper to be in  
21 effect at the Facility from June 16, 2022 through December 31, 2024.

22       **WHEREAS**, on November 1, 2023, Plaintiff issued a notice of intent to file  
23 suit (“60-Day Notice Letter”) to Defendant, its registered agent, the Administrator of  
24 the United States Environmental Protection Agency (“EPA”), the Executive Director  
25 of the State Water Resources Control Board (“State Board”), the Executive Director  
26 of the Regional Board, and the Regional Administrator of EPA Region IX, alleging  
27 violations of the Clean Water Act and the General Permit Water Quality Order 2014-  
28 0057-DWQ, as amended by Order Nos. 2015-0122-DWQ and 2018-0028-DWQ

1 incorporating: 1) Federal Sufficiently Sensitive Test Method Ruling; 2) Total  
2 Maximum Daily Load Implementation Requirements; and 3) Statewide Compliance  
3 Options Incentivizing On-Site or Regional Storm Water Capture and Use, at the  
4 Facility;

5 **WHEREAS**, on February 1, LA Waterkeeper filed a complaint against  
6 Defendant in the Central District of California (“Court”), Civil Case No. 2:24-cv-  
7 00880-AS (“Complaint”);

8 **WHEREAS**, Plaintiff’s Complaint alleged violations of the General Permit  
9 and the Clean Water Act for Defendant’s discharges of pollutants into storm drains  
10 and surface waters, including Compton Creek, the Los Angeles River, and ultimately  
11 to the Los Angeles River Estuary, Queensway Bay, San Pedro Bay, and the Pacific  
12 Ocean (collectively, “Receiving Waters”);

13 **WHEREAS**, Plaintiff and Defendant (collectively, “Settling Parties” or  
14 “Parties”) agree that it is in their mutual interest to enter into a Consent Decree  
15 setting forth terms and conditions appropriate to resolving the allegations set forth in  
16 the 60-Day Notice Letter and Complaint without further proceedings;

17 **WHEREAS**, all actions taken by Defendant pursuant to this Consent Decree  
18 shall be made in compliance with all applicable federal, state and local laws, rules  
19 and regulations.

20 **NOW, THEREFORE, IT IS HEREBY STIPULATED BETWEEN THE**  
21 **SETTLING PARTIES AND ORDERED AND DECREED BY THE COURT AS**  
22 **FOLLOWS:**

23 1. The Court has jurisdiction over the subject matter of this action pursuant  
24 to Section 505(a)(1)(A) of the CWA, 33 U.S.C. § 1365(a)(1)(A).

25 2. Venue is appropriate in the Central District Court pursuant to Section  
26 505(c)(1) of the CWA, 33 U.S.C. § 1365(c)(1), because the Facility at which the  
27 alleged violations are taking place is located within this District.  
28

1           3.     The Complaint states a claim upon which relief may be granted against  
2 Defendant pursuant to Section 505 of the CWA, 33 U.S.C. § 1365.

3           4.     LA Waterkeeper has standing to bring this action.

4           5.     The Court shall retain jurisdiction over this action for purposes of  
5 interpreting, modifying, or enforcing the terms of this Consent Decree, or as long  
6 thereafter as necessary for the Court to resolve any motion to enforce this Consent  
7 Decree, but only regarding issues raised within the Term (as defined below) of this  
8 Consent Decree.

9 **I.     OBJECTIVES**

10          6.     It is the express purpose of the Settling Parties through this Consent  
11 Decree to further the objectives of the Clean Water Act, and to resolve all issues  
12 alleged by LA Waterkeeper in its 60-Day Notice Letter and Complaint. These  
13 objectives include compliance with the provisions of this Consent Decree,  
14 compliance with all terms and conditions of the General Permit, compliance with all  
15 applicable sections of the CWA, and compliance with the Regional Board TSO.

16          7.     In light of these objectives and as set forth fully below, Defendant agrees  
17 to comply with the provisions of this Consent Decree, terms and conditions of the  
18 General Permit, all applicable sections of the CWA at the Facility, and remain in  
19 compliance with the TSO.

20 **II.    AGENCY REVIEW AND DEFINITIONS**

21 **A.     AGENCY REVIEW OF CONSENT DECREE**

22          8.     Agency Review. Plaintiff shall submit this Consent Decree to the United  
23 States Department of Justice and the EPA (the “Federal Agencies”) for agency review  
24 consistent with 40 C.F.R. § 135.5. The agency review period expires forty-five (45)  
25 calendar days after receipt by the Federal Agencies, as evidenced by certified return  
26 receipts, or upon the date that the Federal Agencies provide a no objection letter,  
27 whichever is earlier (“Agency Review Period”). In the event that the Federal  
28 Agencies object to entry of this Consent Decree or to any portion of this Consent

Decree, the Parties agree to meet and confer to attempt to resolve the issue(s) raised by the Federal Agencies. If the Parties are unable to resolve any issue(s) raised by the Federal Agencies in their comments, the Parties agree to expeditiously seek a settlement conference with the assigned Magistrate Judge to resolve any issue(s).

9. Court Notice. Plaintiff shall notify the Court of the receipt date by the Federal Agencies, as required by 40 C.F.R. § 135.5, in order to coordinate the Court's calendar with the 45-day review period.

10. Entry of Consent Decree. Following the expiration of the Agency Review Period, Plaintiff shall submit the Consent Decree to the Court for entry.

**B. DEFINITIONS**

11. Unless otherwise expressly defined herein, terms used in this Consent Decree which are defined in the CWA or in regulations or rules promulgated under the CWA have the meaning assigned to them in the statutes or regulations or rules. Whenever terms listed below are used in this Consent Decree, whether or not capitalized, the following definitions apply:

- a. "BAT" means the Best Available Technology Economically Achievable.
- b. "BCT" means the Best Conventional Pollutant Control Technology, and collectively with BAT is referred to herein as "BAT/BCT."
- c. "BMPs" means Best Management Practices as defined in Attachment C (Glossary) of the General Permit.
- d. "Consent Decree" means this Consent Decree and any attachments or documents incorporated by reference.
- e. "Day" means a calendar day. In computing any period of time under this Consent Decree, where the last day of such period is a Saturday, Sunday, or Federal or State Holiday, the period runs

1 until the close of business on the next day that is not a Saturday,  
2 Sunday, or Federal or State Holiday.

3 f. “Design Storm” means the volume and flow rate of runoff  
4 produced from a design storm as defined by General Permit  
5 Section X.H.6.”

6 g. “Discharge Point” means each discharge location designated in  
7 the then-current SWPPP for the Facility.

8 h. “Effective Date” means the effective date of this Consent Decree,  
9 which shall be the date of full execution by the Parties.

10 i. “Entry Date” means the day this Consent Decree is approved and  
11 entered by the Court.

12 j. “Forecasted Rain Event” means a forecasted rain event as  
13 determined by the National Oceanic and Atmospheric  
14 Administration (<http://forecast.weather.gov/>) for “90222,  
15 Compton, CA, USA”.<sup>2</sup>

16 k. “In writing” means in written electronic or hard copy form.

17 l. “MIP” means a Monitoring Implementation Plan.

18 m. “PPT” means Pollution Prevention Team.

19 n. “Qualified Industrial Storm Water Practitioner” or “QISP” shall  
20 have the definition set forth in Section IX.A.1 of the General  
21 Permit.

22 o. “Qualifying Storm Event” or “QSE” shall have the definition set  
23 forth in Section XI.B.1 of the General Permit.

24 p. “Reporting Year” means the period from July 1 of a given  
25 calendar year to June 30 of the following calendar year.  
26  
27  
28

---

<sup>2</sup> Available at: <https://forecast.weather.gov/MapClick.php?lat=33.9111&lon=-118.2365>.



- 1           q.     “SMARTS” means the California State Water Resources Control  
2                 Board’s Stormwater Multiple Application and Report Tracking  
3                 System.
- 4           r.     “SWPPP” means a Storm Water Pollution Prevention Plan.
- 5           s.     “Term” means the period between the Effective Date and the  
6                 “Termination Date.”
- 7           t.     “Termination Date” means the latest of:
- 8                 i.     June 30 following four (4) years from the Effective Date;
- 9                 ii.    June 30 following two (2) years after the proposed  
10                 advanced treatment system for drainage area S-3 is fully  
11                 installed, operational, and optimized;
- 12                iii.   seven (7) days from the conclusion of any proceeding or  
13                 process to enforce the Consent Decree initiated prior to the  
14                 later of dates in (i) and (ii) above; or
- 15                iv.    seven (7) days from Defendant’s completion of all  
16                 payments and other affirmative duties required by this  
17                 Consent Decree;
- 18                v.     Except if the Facility discontinues industrial use of zinc  
19                 oxide and copper oxide powder, in which case the  
20                 Termination Date shall be the date on which the parties,  
21                 after meeting and conferring pursuant to the Dispute  
22                 Resolution procedures in Section IV below, agree to a  
23                 stipulation, filed herein, notifying the Court and the  
24                 Department of Justice that the Consent Decree has been  
25                 terminated and the reasons therefore. As part of this  
26                 process, Plaintiff shall be entitled to an additional Facility  
27                 inspection to verify the discontinued use of zinc oxide and  
28                 copper oxide powder as well as General Permit compliance



1 and the absence of additional zinc or copper pollutant  
2 sources warranting continued attention under this Consent  
3 Decree.

4 u. “Wet Season” means the period beginning October 1st of any  
5 given calendar year and ending June 30th of the following  
6 calendar year.

7 **III. COMMITMENTS OF THE SETTLING PARTIES**

8 **A. STORM WATER POLLUTION CONTROL BEST MANAGEMENT PRACTICES**

9 12. Non-Storm Water Discharge Prohibition. Any unauthorized non-storm  
10 water discharge, as defined in the General Permit, shall be a violation of this Consent  
11 Decree.

12 13. Current and Additional Best Management Practices. At all times,  
13 Defendant shall implement BMPs identified in its SWPPP and BMPs described  
14 herein, and shall develop and implement additional BMPs as necessary to comply  
15 with the provisions of this Consent Decree and the General Permit, including but not  
16 limited to those (1) necessary to comply with BAT/BCT-level pollutant reductions;  
17 and (2) the General Permit’s Receiving Water Limitations, which require that  
18 discharges from the Facility “not cause or contribute to an exceedance of any  
19 applicable water quality standards” contained in a Statewide Water Quality Control  
20 Plan or the applicable Regional Board’s Basin Plan.

21 14. Structural and Non-Structural BMPs for the Facility. Within forty-five  
22 (45) days of the Effective Date, unless otherwise stated, Defendant shall develop and  
23 implement the following BMPs at the Facility:

24 a. **Improved Raw Materials Storage for Zinc and Copper**  
25 **Oxides.** Install Shipping Containers for the storage, whether  
26 permanent or temporary, of all raw materials at the Facility  
27 containing zinc oxide or copper oxide (with all deliveries of such  
28 raw materials to the Facility stored indoors or placed directly in

1 the Shipping Containers by the end of the day on the date of the  
2 raw material delivery);

3 **b. Improved Inlet Protections (Drainage Areas S-1, S-2 and S-4).**

4 At all existing drainage inlets in Drainage Areas S-1, S-2 and S-4,  
5 install new filter socks and drain inlet filters and implement  
6 weekly inspections of these drainage inlets as required by the  
7 General Permit. Each such drainage inlet shall include filtration  
8 through Abtech Smart Sponge Media HM or an equivalent filter  
9 medium. Each of these visual inspections shall be  
10 contemporaneously logged with the Facility SWPPP, indicating  
11 the inspector's name, and the date and time of the inspection of  
12 each drainage inlet pursuant to a pre-printed checklist identifying  
13 each inlet to be inspected. During the Wet Season, as necessary,  
14 Defendants shall replace the wattles/filters/socks in when  
15 degraded or ineffective, including without limitation when there  
16 are rips, tears or other visual damage, and/or sampling data  
17 demonstrating the wattles/filters/socks are not sufficiently  
18 reducing pollutant concentrations.

19 **c. Cover or remove final product storage (Drainage Areas S-2**  
20 **and S-4).** Within sixty (60) days of the Effective Date, implement  
21 a program to cover (e.g., using tarp or storm-resistant shelter) all  
22 outdoor final product storage in Drainage Areas S-2 and S-4 prior  
23 to Forecasted Rain Events or move all outdoor final product  
24 storage out of Drainage Areas S-2 and S-4. This change will be  
25 incorporated in the SWPPP.

26 **d. Advanced Treatment System (Drainage Area S-3).** Within  
27 twenty-four (24) months of the Effective Date, if still using zinc  
28 and copper-containing powder in its industrial processes,

1 Defendant shall design and implement a detention storage and  
2 advanced treatment system (“Treatment System”). The Treatment  
3 System shall be designed to meet NELs and NALs for copper and  
4 zinc at discharge point S-3, using media filtration, and sized to  
5 meet the design standards in section X.H.6 of the General Permit.  
6 All roof runoff from the Cooling Section Roof as delineated in  
7 Exhibit A attached hereto will be routed to the Treatment System.  
8 Defendants shall provide written quarterly status reports to  
9 Plaintiff (“Status Reports”) on the feasibility, engineering,  
10 designing, permitting and building of the Treatment System  
11 beginning one hundred twenty (120) days from the Effective Date  
12 and continuing until the project is fully built. The first Status  
13 Report, due one hundred twenty (120) days from the Effective  
14 Date, shall include the proposed comprehensive design for the  
15 Treatment System, including but not limited to, the hydrology and  
16 hydraulics analysis for the Facility, projected volume storage, and  
17 the treatment design flowrates.

- 18 e. **Waste Removal.** Cover or remove all shingle waste bins in  
19 Drainage Areas S-1, S-2 and S-4 to locations under either new or  
20 existing roof cover, or into Area S-3.
- 21 f. **Improved Sweeping Program.** On all paved areas, implement a  
22 sweeping program on a monthly frequency using a sweeper  
23 certified by the South Coast Air Quality Management District  
24 with the capacity to collect and retain PM-10 (10 µm) particles.  
25 On a weekly frequency during the Wet Season, and within twenty-  
26 four (24) hours prior to a Forecasted Rain Event, implement a  
27 sweeping program using the existing facility-owned sweeper. Also  
28 employ hand sweeping and/or vacuuming on the same schedule in

1 all areas a mechanical sweeper cannot access that potentially  
2 contribute to contamination of stormwater discharge, subject to  
3 safety considerations. These sweeping events shall be  
4 contemporaneously logged with the Facility SWPPP, indicating  
5 the personnel involved, and the date(s) for each sweeping event.

- 6 g. **Pre-Rain Protocols.** Institute a formal pre-rain protocol  
7 throughout the Wet Season to be implemented within twenty-four  
8 (24) hours prior to a Forecasted Rain Event, and requiring the  
9 inspection of all drainage inlets, removal of any exposed waste  
10 material, and relocation of uncontained or uncovered shingle  
11 waste bins under cover sufficient to prevent exposure to rainfall,  
12 including without limitation those stored outside and where roof  
13 protection is inadequate, or otherwise move them into a covered  
14 structure adequate to prevent exposure to rainfall;

15 Within seven (7) days of each of the above BMPs being implemented, Defendant  
16 shall confirm to LA Waterkeeper in writing, with photographs, that such BMP has  
17 been implemented as set forth above.

18 **B. SAMPLING AT THE FACILITY**

19 15. Defendant shall develop a monitoring program consistent with the  
20 General Permit. During the Term, Defendant shall collect samples of storm water  
21 discharge from each Discharge Point for a minimum of four (4) Qualifying Storm  
22 Events each Reporting Year as required by the General Permit, and shall use best  
23 efforts to collect such samples during the first two (2) Qualifying Storm Events in  
24 each half of the Reporting Year. Such sampling shall take place as soon as possible  
25 within the four (4) hour period required by the General Permit § XI.B.5. If Defendant  
26 would have been required to collect samples during a rain event pursuant to the  
27 qualified storm event definition of this Consent Decree had such rain event produced  
28 a sampleable discharge, but Defendant did not collect samples because such rain

1 event did not produce a sampleable discharge, then Defendant shall use best efforts to  
2 document the inability to sample by taking representative photographs during the rain  
3 event of each Discharge Point from which no discharge occurred. Defendant shall  
4 submit such photographs to LA Waterkeeper by email, along with nearby publicly  
5 available rain gauge/sensor data for the date of such rain event, within five (5) days of  
6 a written request for such records by LA Waterkeeper.

7       16. Sampling Parameters. All samples collected pursuant to this Consent  
8 Decree shall be analyzed, at minimum, for the parameters listed in Table 1. Should  
9 Defendant intend to modify sampling for any of the parameters listed in Table 1 or  
10 additional parameters that are listed in 40 C.F.R. § 131.38 and/or in the General  
11 Permit for any reason, including without limitation as a result of changed operations,  
12 a revised pollutant source assessment, or a new mandate from a regulatory agency,  
13 such modification shall be incorporated into this Consent Decree as if listed in Table  
14 1 for all purposes, including any Action Plan requirements (as defined below).  
15 Defendant shall promptly notify LA Waterkeeper of its intent to modify sampling for  
16 any parameters and the Parties shall meet and confer regarding the applicable Table 1  
17 limit for such purposes within ten (10) days of such notification, unless such  
18 modification will be addressed pursuant to the review and comment provisions  
19 applicable for SWPPP revisions in paragraph 27.

20       17. Laboratory and Holding Time. Defendant shall deliver all samples  
21 collected pursuant to this Consent Decree to a California-certified environmental  
22 laboratory for analysis within allowable hold times, pursuant to 40 C.F.R. Part 136.

23       18. Detection Limit. Defendant shall request that the laboratory use  
24 analytical methods adequate to detect the individual contaminants at or below the  
25 values specified in the General Permit and Table 1 below.

26       19. Reporting. Defendant shall provide complete laboratory results of all  
27 samples collected at the Facility to SMARTS in accordance with the General Permit,  
28

1 and shall provide copies to LA Waterkeeper within ten (10) days of receiving the  
2 laboratory report with the results.

3 **C. REDUCTION OF POLLUTANTS IN DISCHARGES**

4 20. Table 1 Numeric Limits. Defendant shall develop and implement BMPs  
5 for storm water discharges from the Facility that reduce pollutant concentrations to  
6 levels below those in Table 1.

7 **TABLE 1**

Parameter	Numeric Limit	Source of Limit
Copper	0.06749	NEL
Zinc	0.159	NEL

11 21. Table 1 Exceedances. An “Exceedance” of Table 1 is defined as  
12 follows: where the concentration of any pollutant in any two (2) storm water samples  
13 from a given sampling location during a Reporting Year exceeds any numeric limit  
14 contained in Table 1, except during storms that exceed structural BMP sizing criteria  
15 of section X.H.6 of the General Permit. An exceedance shall constitute a violation of  
16 this Consent Decree, except it shall not be considered a violation for S-3 until after  
17 complete installation of the treatment system pursuant to Paragraph 14.d above.

18 22. Action Plan for Table 1 Exceedances. As of the Effective Date (and, for  
19 S-3 after complete installation of the treatment system pursuant to Paragraph 14.d  
20 above), and for the remainder of the Term, if Defendant has an unauthorized non-  
21 storm water discharge in violation of Paragraph III.A.12, above, or storm water  
22 samples demonstrate an Exceedance as defined above, Defendant shall prepare and  
23 submit to LA Waterkeeper a plan for reducing and/or eliminating the relevant  
24 discharge of pollutants for the Facility and/or achieving compliance with the non-  
25 storm water discharge prohibition (“Action Plan”). However, an Action Plan shall not  
26 be required when the BMPs for the applicable unauthorized non-storm water  
27 discharge or Exceedance for the same pollutant in the same drainage area were  
28

1 addressed in a previous Action Plan in the same Reporting Year and such BMPs were  
2 not yet implemented as of the date of the applicable unauthorized non-storm water  
3 discharge or QSE sampling that led to the Exceedance.<sup>3</sup> The complete Action Plan  
4 shall be submitted to LA Waterkeeper within thirty (30) days of the unauthorized  
5 non-storm water discharge or the receipt of the laboratory report demonstrating the  
6 Exceedance, as applicable.

- 7 a. Action Plan Requirements. Each complete Action Plan submitted  
8 shall include at a minimum: (1) the identification of the  
9 contaminant(s) discharged in excess of the numeric limit(s) and/or  
10 the applicable unauthorized non-storm water discharge; (2) an  
11 assessment of the source of each contaminant exceedance and/or  
12 applicable unauthorized non-storm water discharge; (3) the  
13 identification of any additional BMPs or other steps that are  
14 proposed to be implemented to achieve compliance with the  
15 numeric limit(s) and/or unauthorized non-storm water discharge  
16 prohibition, as well as the design plans and calculations of any  
17 additional BMPs; and (4) time schedules for implementation of  
18 any proposed BMPs. The time schedule(s) for implementation  
19 shall ensure that all BMPs are implemented as soon as practicable,  
20 but in no event later than ninety (90) days following the  
21 submission of the Action Plan, unless a later implementation date  
22 is mutually agreed upon by the Settling Parties. Within seven (7)  
23 days of any of the BMPs set forth in the Action Plan being  
24 implemented, Defendant shall confirm to LA Waterkeeper in  
25

---

26  
27 <sup>3</sup> For clarity, an Action Plan based on an Exceedance shall be required if: (i) the applicable Exceedance is demonstrated  
28 for a pollutant and/or in a drainage area not addressed in a previous Action Plan in the same Reporting  
Year; and/or (2) when the applicable Exceedance is demonstrated for the same pollutant in the same drainage area as in  
a previous Action Plan in the same Reporting Year and the BMPs in the previous Action Plan were fully implemented  
before the applicable QSE that led to the Exceedance was sampled.



1 writing, with photographs, that such BMP has been implemented  
2 as set forth in the Action Plan.

- 3 b. Action Plan Proposed BMPs. The following BMPs should  
4 generally be evaluated for inclusion in Action Plans to attain the  
5 Table 1 levels in the Facility's storm water discharges:
- 6 i. Fleet Tires Upgrade. Upgrade all truck and forklift tires  
7 with zinc-free tires or other durable alternatives that  
8 minimize the release of dust.
  - 9 ii. Improved Sweeping. The increased/more frequent use of  
10 sweepers and manual sweeping in otherwise inaccessible  
11 areas.
  - 12 iii. Treatment System Improvements (Drainage Area S-3).  
13 Installing additional components or systems, or otherwise  
14 improving, the Treatment System, or making changes to the  
15 operation and maintenance protocols for such system, to  
16 provide more effective filtration treatment of storm water  
17 prior to discharge.
  - 18 iv. Evaluation of Existing BMPs. Replacing, rehabilitating, or  
19 eliminating existing BMPs, taking into account the age of  
20 the BMPs involved or employed, the engineering aspect of  
21 the application of various BMPs, and any adverse  
22 environmental impact of the BMPs.
  - 23 v. New treatment (Drainage Area S-1). Similar to the  
24 Treatment System described above for Drainage Area S-3.  
25 Alternatively, this could involve routing stormwater from S-  
26 1 to the S-3 Treatment System, and upgrading that  
27 Treatment System to maintain sizing consistent with IGP  
28 section X.H.6 for the new larger combined drainage area.

vi. **Improved Downspout Protections (All Facility Roofing).**

Install Zinc-B-Gone Pro roof downspout filters at all roof downspouts where such filter has not already been installed and where BMPs are not already present, and replace media at existing Zinc-B-Gone filters with standard, vendor-provided metal cation exchanging media.

c. Action Plan Review. LA Waterkeeper shall have thirty (30) days upon receipt of Defendant's complete Action Plan to provide Defendant with comments. Within fourteen (14) days of receiving LA Waterkeeper's proposed revisions to an Action Plan, Defendant shall consider each of LA Waterkeeper's recommended revisions and accept them or justify in writing why any comment is not incorporated. Action Plan(s) developed and implemented pursuant to this Consent Decree are an obligation of this Consent Decree. Any disputes as to the adequacy of an Action Plan shall be resolved pursuant to the dispute resolution provisions of this Consent Decree, set out in Section IV below. Disputes regarding the adequacy of a particular BMP shall not impact the schedule for implementing any other BMP set forth in the Action Plan.

d. Defendant shall revise the then-current SWPPP to reflect the changes implemented pursuant to the Action Plan, as set forth in Paragraph 27, below.

e. Action Plan Payments. Defendant shall pay Four Thousand Dollars (\$4,000.00) each time an Action Plan is submitted to LA Waterkeeper. Payments are due at the same time that the applicable Action Plan is submitted and shall be made to "Los Angeles Waterkeeper" via certified mail, return receipt requested to Los Angeles Waterkeeper, c/o Barak Kamelgard, 360 E 2nd

1 Street Suite 250, Los Angeles, CA 90012. Failure to submit a  
2 payment as required under this Paragraph will constitute a breach  
3 of the Consent Decree.

4 **D. VISUAL OBSERVATIONS**

5 23. Storm Water Discharge Observations. During the Term, appropriately  
6 trained staff of Defendant shall conduct visual observations during the Facility's  
7 operating hours during a minimum of four (4) QSEs each Reporting Year as required  
8 by the General Permit. Such inspections shall comply with all requirements of  
9 Section XI.A.2 of the General Permit, and any successor thereof.

10 24. Monthly Visual Observations. During the Term, appropriately trained  
11 staff of Defendant shall conduct monthly non-storm water visual observations of the  
12 Facility. Such inspections shall comply with all requirements of Section XI.A.1 of the  
13 General Permit, and any successor thereof. Such monitoring shall include outfalls,  
14 Discharge Points, outdoor industrial equipment and storage areas, outdoor industrial  
15 activities areas, BMPs, and all other potential sources of industrial pollutants. All  
16 Discharge Points shall also be inspected for accumulation of dust, sediment, sand,  
17 grit, oily substances, oily sheens upon any standing water, and other materials  
18 associated with operations at the Facility. During the Wet Season, such inspections  
19 shall further include observations of all storm water BMPs that are used only during  
20 the Wet Season at the Facility to ensure that operational BMPs are being  
21 implemented, structural BMPs are in good condition or working order, and that  
22 BMPs have been effective in producing clean conditions at the Facility. Such  
23 inspections shall further include observation as to whether there are any non-storm  
24 water discharges from the Facility.

25 25. Visual Observations Records. Defendant shall maintain observation  
26 records, including representative photographs, to document compliance with  
27 Paragraphs 23 and 24. Such records shall include, but not be limited to, the persons  
28 who completed the inspection, the date of the inspection, and notes sufficient to

1 describe the completed activity and all observations thereof, including but not limited  
2 to: (i) whether BMPs are in a proper, working condition; (ii) whether any repair,  
3 replacement, or operation and maintenance is needed for any BMPs; (iii) other  
4 conditions that have the potential to lead to pollutant loading in storm water  
5 discharges; and (iv) representative photographs of all of the foregoing where feasible.  
6 Defendant shall provide LA Waterkeeper with a copy of those records within seven  
7 (7) days of receipt of a written request from LA Waterkeeper for those records.

8       26. Employee Training Program. Within thirty (30) days of the Effective  
9 Date, Defendant shall develop and implement an employee training program that  
10 meets the following requirements and ensures (1) that there is a sufficient number of  
11 employees at the Facility designated to achieve compliance with the General Permit  
12 and this Consent Decree (“Designated Employees”), and (2) that these Designated  
13 Employees are properly trained to perform the activities required by the General  
14 Permit and this Consent Decree (“Training Program”):

- 15           a. Materials. Training materials should include, at minimum, a  
16 detailed Training Manual or Standard Operating Procedure,  
17 including drawings and diagrams where appropriate, for reference  
18 and use by Defendant’s personnel to ensure effective  
19 implementation of all BMPs at the Facility;
- 20           b. Language. The training and training materials shall be available  
21 and offered in the language(s) in which relevant employees are  
22 fluent. If necessary, Defendant shall provide a translator or  
23 translators at all trainings where such translation is likely to  
24 improve staff comprehension of the Training Program and  
25 improve compliance with this Consent Decree and the General  
26 Permit;
- 27           c. Training Frequency. Training shall be provided by a QISP  
28 familiar with the requirements of this Consent Decree and the

1 General Permit, and shall be repeated as necessary to ensure that  
2 all relevant employees are familiar with the requirements of this  
3 Consent Decree, the Permit, and the Facility's SWPPP. All  
4 relevant new staff shall receive this training before assuming  
5 responsibilities for implementing the SWPPP;

- 6 d. Sampling Training. Defendant shall designate an adequate number  
7 of employees necessary to collect storm water samples as required  
8 by this Consent Decree, including training to ensure samples are  
9 properly collected, stored, and submitted to a certified laboratory;
- 10 e. Visual Observation Training. Defendant shall provide training on  
11 how and when to properly conduct visual observations to  
12 Designated Employees;
- 13 f. Non-Storm Water Discharge Training. Defendant shall train all  
14 Designated Employees at the Facility on the General Permit's  
15 prohibition of non-storm water discharges, so that Designated  
16 Employees know what non-storm water discharges are and how to  
17 detect and prevent non-storm water discharges;
- 18 g. Employees. All Designated Employees at the Facility shall  
19 participate in the Training Program annually. New Designated  
20 Employees shall participate in the Training Program within thirty  
21 (30) days of their hiring date; and
- 22 h. Records. Defendant shall maintain training records to document  
23 compliance with this Paragraph and shall provide LA Waterkeeper  
24 with a copy of these records within seven (7) days of receipt of a  
25 written request.

26 27. SWPPP Revisions.

- 27 a. Initial SWPPP Revisions. Defendant shall amend the Facility's  
28 SWPPP to incorporate the requirements in this Consent Decree

1 and comply with the General Permit and submit the complete,  
2 updated SWPPP to LA Waterkeeper within thirty (30) days of the  
3 Effective Date for LA Waterkeeper's review and comment. The  
4 complete, updated SWPPP shall contain, at a minimum, the  
5 following elements:

- 6 i. A revised pollutant source assessment, including all  
7 elements required by section X.G of the General Permit as  
8 well as assessments of the potential for the Facility's storm  
9 water discharges to contain pollutants for which the  
10 Receiving Waters are 303(d) listed and/or have Total  
11 Maximum Daily Loads and that are associated with an  
12 industrial activity or material that is exposed to  
13 rainwater/stormwater;
- 14 ii. A detailed narrative description and assessment of each  
15 industrial activity with the potential to impact storm water  
16 quality occurring at the Facility as required by section X.G  
17 of the General Permit;
- 18 iii. Descriptions of all BMPs in accordance with section X.H.4  
19 of the General Permit, including without limitation BMPs  
20 required by this Consent Decree;
- 21 iv. A set of site maps that comply with section X.E of the  
22 General Permit and provisions of this Consent Decree;
- 23 v. A MIP as required by sections XI and X.I of the General  
24 Permit;
- 25 vi. A designation (by position/title) of employees responsible  
26 for carrying out storm water management, monitoring,  
27 sampling and SWPPP implementation, e.g., visual  
28

1 inspection of each specific area, monitoring each specific  
2 BMP, sampling, etc.; and

3 vii. A Training Program as described above in Paragraph 26.

4 b. Additional SWPPP Revisions.

5 i. Within thirty (30) days after acceptance of any Action Plan  
6 by LA Waterkeeper (or resolution pursuant to Dispute  
7 Resolution), Defendant shall revise the then-current SWPPP  
8 to reflect the changes required by the Action Plan and  
9 submit the complete, updated SWPPP to LA Waterkeeper  
10 for LA Waterkeeper's review and comment.

11 ii. Within thirty (30) days after any changes in industrial  
12 activities, sources of industrial pollutants, monitoring  
13 parameters, changes to Discharge Points, or material (i.e.,  
14 non-administrative) changes to sections of the SWPPP  
15 identified in the SWPPP as requiring a SWPPP revision  
16 (including but not limited to, changes in or additions of  
17 industrial activities that impact storm water discharge),  
18 Defendant shall revise the then-current SWPPP to reflect  
19 such changes and submit the complete, updated SWPPP to  
20 LA Waterkeeper for LA Waterkeeper's review and  
21 comment.

22 c. Review of SWPPP. For any SWPPP updates during the Term of  
23 this Consent Decree pursuant to Paragraphs 28.a. and 28.b., LA  
24 Waterkeeper shall have thirty (30) days upon receipt of  
25 Defendant's complete SWPPP to provide Defendant with  
26 comments. Within thirty (30) days of receiving LA Waterkeeper's  
27 comments and proposed changes to the SWPPP, Defendant shall  
28 consider each of the comments and proposed changes and either



1 accept them or justify in writing why a change is not incorporated.  
2 The Parties agree to work in good faith to resolve any disputes  
3 with respect to the SWPPP, and any remaining disputes will be  
4 resolved through timely initiation of the dispute resolution  
5 procedures in Section IV below. Following its incorporation of  
6 proposed modification or additions (if any) into each revised  
7 SWPPP, Defendant shall upload the revised SWPPP to SMARTS.

8 **E. COMPLIANCE MONITORING AND REPORTING**

9 28. LA Waterkeeper may conduct one annual site inspection (“Site  
10 Inspection”) during each Reporting Year during the Term for the purpose of ensuring  
11 compliance with this Consent Decree and the General Permit. In the event of a  
12 dispute regarding Defendant’s compliance with this Consent Decree, and provided a  
13 Site Inspection would be relevant to resolving the Parties’ dispute, the Parties agree to  
14 meet and confer regarding an additional Site Inspection at Plaintiff’s request. Plaintiff  
15 shall not unreasonably request, and Defendant shall not unreasonably deny, one  
16 additional Site Inspection. Any Site Inspection shall occur during normal business  
17 hours, and LA Waterkeeper will provide Defendant with at least forty-eight (48)  
18 hours’ notice prior to a Site Inspection, and specify the time and date of the proposed  
19 inspection. For any Site Inspection requested to occur in wet weather, Plaintiff shall  
20 be entitled to adjust timing or reschedule during normal business hours in the event  
21 the forecast changes and anticipated precipitation appears unlikely, and thus frustrates  
22 the purpose of visiting the Facility in wet weather. Notice will be provided by  
23 electronic mail to the individual(s) designated below at Paragraph 56. During the Wet  
24 Weather inspection, Plaintiff may request that Defendant collect a sample of  
25 industrial storm water discharge from the Facility’s designated industrial discharge  
26 point(s) referenced in its SWPPP, to the extent that such discharges are occurring,  
27 unless four (4) samples in the reporting year have already been collected, or the  
28 timing of the inspection fails to meet the QSE definition, or samples were already

1 collected earlier by Defendant for that same QSE. Defendant shall collect the sample  
2 and provide a split sample to LA Waterkeeper. LA Waterkeeper's representative(s)  
3 may observe the split sample(s) being collected by Defendant's representative LA  
4 Waterkeeper shall be permitted to take photographs or video recording relevant to  
5 storm water discharges during any Site Inspection.

6 29. Document Provision. During the Term, Defendant shall notify and  
7 submit documents to LA Waterkeeper as follows:

- 8 a. By the 1<sup>st</sup> day of each month, Defendant shall provide LA  
9 Waterkeeper with copies of all documents materially relevant to  
10 storm water quality at that facility, including compliance  
11 documents, monitoring and/or sampling data, or written  
12 communications and/or correspondences that have been submitted  
13 to or received from the Regional Board, the State Board, and/or  
14 any state or local agency, county or municipality in the previous  
15 month, unless the documents are publicly accessible through  
16 SMARTS.

17 30. Compliance Monitoring. Defendant shall partially defray costs  
18 associated with Plaintiff's monitoring of Defendant's compliance with this Consent  
19 Decree during the Term by paying Five Thousand Dollars (\$5,000.00) per year of the  
20 Consent Decree, beginning on the Entry Date. The first such payment shall be made  
21 within thirty (30) days of the Entry Date, and each subsequent payment shall be made  
22 upon the applicable anniversary of the Effective Date. In the event that, pursuant to  
23 Paragraph 29, there is an additional Site Inspection in a given year to resolve a  
24 dispute pursuant to the Consent Decree, Defendant shall reimburse LA Waterkeeper  
25 an additional Two Thousand Dollars (\$2,000.00) during such year. Payment shall be  
26 made within thirty (30) days after any additional Site Inspection, as applicable. The  
27 payment shall be made via check, made payable to: "Los Angeles Waterkeeper" via  
28 certified mail, return receipt requested to Los Angeles Waterkeeper, c/o Barak

1 Kamelgard, 360 E 2nd Street Suite 250, Los Angeles, CA 90012. Failure to submit  
2 payment as required under this Paragraph will constitute breach of the Consent  
3 Decree.

4 **F. ENVIRONMENTALLY BENEFICIAL PROJECT, LITIGATION FEES AND**  
5 **COSTS, MISSED DEADLINES, AND INTEREST**

6 31. Environmentally Beneficial Project. To fund environmentally beneficial  
7 project activities that will reduce or mitigate the impacts of storm water pollution  
8 occurring in the watersheds of Compton Creek and the Los Angeles River, and the  
9 Pacific Ocean near the mouth of the Los Angeles River, Defendant shall make a  
10 payment totaling Thirty-Five Thousand Dollars (\$35,000.00) to the Think Watts  
11 Foundation made within thirty (30) days of the Entry Date, payable to the Think  
12 Watts Foundation and sent via overnight mail to Think Watts Foundation, 1225 E  
13 100<sup>th</sup> Street, Los Angeles, CA 90002. Failure to submit payment as required under  
14 this Paragraph will constitute breach of the Consent Decree.

15 32. LA Waterkeeper's Fees and Costs. Defendant shall pay a total of  
16 Seventy Thousand Dollars (\$70,000) to LA Waterkeeper to partially reimburse  
17 Plaintiff for their investigation fees and costs, expert/consultant fees and costs,  
18 reasonable attorneys' fees, and other costs incurred as a result of investigating and  
19 filing the lawsuit, and negotiating a resolution of this matter within thirty (30) days of  
20 the Entry Date. The payment shall be made payable to: the "Law Offices of Andrew  
21 L. Packard Attorney-Client Trust Account." and delivered by overnight carrier to:

22 Attn.: Law Offices of Andrew L. Packard  
23 245 Kentucky Street, Suite B3  
24 Petaluma, CA 94952

25 Failure to submit payment as required under this Paragraph will constitute breach of  
26 the Consent Decree.

27 33. Missed Deadlines. In the event that Defendant fails to submit to LA  
28 Waterkeeper any payment, document, report, or communication required by this

1 Consent Decree, Defendant shall pay a stipulated payment of Five Hundred Dollars  
2 (\$500) per day. Such stipulated payments shall be made by check payable to Think  
3 Watts Foundation, and such funds shall be used for the sole purpose of funding  
4 environmentally beneficial projects, as described in Paragraph 31. Payment shall be  
5 sent via overnight mail to Think Watts Foundation, 1225 E 100<sup>th</sup> Street, Los Angeles,  
6 CA 90002. Defendant agrees to make the stipulated payment within fourteen (14)  
7 days after the resolution of the event that precipitated the stipulated payment liability.

8       34. Interest on Late Payments. Defendant shall pay interest on any  
9 payments, fees, or costs owed pursuant to this Consent Decree that are not received  
10 by the due date. The interest shall accrue starting the next business day after the  
11 payment is due and shall be computed at a rate equal to the lower of: (i) 7% per year  
12 (0.583% per month); or (ii) the maximum rate permitted by applicable law. Interest  
13 shall continue to accrue daily on any outstanding balance until Defendant is current  
14 on all payments then due under this Consent Decree, and shall be paid at the same  
15 time that the payments, fees, or costs owed are paid to LA Waterkeeper. Interest on  
16 late payments shall be paid by check payable to: Think Watts Foundation and such  
17 funds shall be used for the sole purpose of funding environmentally beneficial  
18 projects, as described in Paragraph 31. Payment shall be sent via overnight mail to  
19 Think Watts Foundation at the address above.

#### 20 **IV. DISPUTE RESOLUTION**

21       35. This Court shall retain jurisdiction over this matter for the Term for the  
22 purposes of enforcing its terms and conditions, and adjudicating all disputes among  
23 the Parties that may arise under the provisions of this Consent Decree. The Court  
24 shall have the power to enforce this Consent Decree with all available legal and  
25 equitable remedies, including contempt.

26       36. Meet and Confer. Either party to this Consent Decree may invoke the  
27 dispute resolution procedures of this Section IV by notifying the other party in  
28 writing of the matter(s) in dispute and of the disputing party's proposal for resolution.

1 The Parties shall then meet and confer in good faith (either telephonically or in  
2 person) within ten (10) days of the date of the notice in an attempt to fully resolve the  
3 dispute no later than thirty (30) days of the meet and confer.

4 37. Settlement Conference. If the Parties cannot resolve the dispute within  
5 thirty (30) days of the meet and confer described in Paragraph 36 the Parties agree  
6 that the dispute may be, but is not required to be, submitted for formal resolution by  
7 filing a motion before the United States District Court for the Central District of  
8 California. The Parties agree to request an expedited hearing schedule on the motion.

9 38. In resolving any dispute arising from this Consent Decree before the  
10 Court, the prevailing Party shall be entitled to seek fees and costs incurred pursuant to  
11 the provisions set forth in Section 505(d) of the Clean Water Act, 33 U.S.C. §  
12 1365(d), and applicable case law interpreting such provisions, or as otherwise  
13 provided for by statute and/or case law.

14 **V. MUTUAL RELEASE OF LIABILITY AND COVENANT NOT TO SUE**

15 39. Plaintiff's Waiver and Release of Defendant. In consideration of the  
16 above, upon the Effective Date of this Consent Decree, Plaintiff, on its own behalf  
17 and on behalf of its officers and directors, release Defendant, its officers, directors,  
18 managers, employees, members, parents, subsidiaries, divisions, affiliates, successors  
19 or assigns, agents, attorneys and other representatives, from and waives all claims  
20 that were raised in the 60-Day Notice Letter and/or the Complaint up to and including  
21 the Termination Date of this Consent Decree.

22 40. Defendant's Waiver and Release of Plaintiff. In consideration of the  
23 above, upon the Effective Date of this Consent Decree, Defendant, on its own behalf  
24 and on behalf of its officers, directors, employees, parents, subsidiaries, affiliates and  
25 each of their successors or assigns, release Plaintiff, its officers and directors, from  
26 and waives all claims related to the 60-Day Notice Letter and/or the Complaint up to  
27 and including the Termination Date of this Consent Decree.

1           41. Nothing in this Consent Decree limits or otherwise affects Plaintiff's  
2 rights to address or take any position that it deems necessary or appropriate in an  
3 informal or formal proceeding before the State Board, Regional Board, EPA, or any  
4 other judicial or administrative body on any matter relating to Defendant's  
5 compliance at the Facility with the General Permit or the Clean Water Act occurring  
6 or arising after the Effective Date.

7 **VI. MISCELLANEOUS PROVISIONS**

8           42. No Admission of Liability. The Parties enter into this Consent Decree  
9 for the purpose of avoiding prolonged and costly litigation. Neither the Consent  
10 Decree nor any payment pursuant to the Consent Decree shall constitute or be  
11 construed as a finding, adjudication, or acknowledgement of any fact, law or liability,  
12 nor shall it be construed as an admission of violation of any law, rule, or regulation.  
13 Defendant maintains and reserves all defenses it may have to any alleged violations  
14 that may be raised in the future.

15           43. Counterparts. This Consent Decree may be executed in any number of  
16 counterparts, all of which together shall constitute one original document. Telecopy  
17 and/or facsimile copies of original signature shall be deemed to be originally  
18 executed counterparts of this Consent Decree.

19           44. Authority. The undersigned representatives for Plaintiff and Defendant  
20 each certify that s/he is fully authorized by the party whom s/he represents to enter  
21 into this Consent Decree. A Party's signature to this Consent Decree transmitted by  
22 facsimile or electronic mail shall be deemed binding.

23           45. Construction. The language in all parts of this Consent Decree shall be  
24 construed according to its plain and ordinary meaning, except as to those terms  
25 defined in the Permit, the Clean Water Act, or specifically herein. The captions and  
26 paragraph headings used in this Consent Decree are for reference only and shall not  
27 affect the construction of this Consent Decree.



1       46. Full Settlement. This Consent Decree constitutes a full and final  
2 settlement of this matter.

3       47. Integration Clause. This is an integrated Consent Decree. This Consent  
4 Decree is intended to be a full and complete statement of the terms of the agreement  
5 between the Parties and expressly supersedes any and all prior oral or written  
6 agreements, covenants, representations, and warranties (express or implied)  
7 concerning the subject matter of this Consent Decree.

8       48. Severability. In the event that any provision, paragraph, section, or  
9 sentence of this Consent Decree is held by a court to be unenforceable, the validity of  
10 the enforceable provisions shall not be adversely affected.

11       49. Choice of Law. The laws of the United States shall govern this Consent  
12 Decree.

13       50. Diligence. Defendant shall diligently file and pursue all required permit  
14 applications for any required BMPs and shall diligently procure contractors, labor,  
15 and materials needed to complete all BMPs by the required deadlines.

16       51. Effect of Consent Decree. Compliance with this Consent Decree does  
17 not mean that Defendant is complying with the General Permit, the Clean Water Act,  
18 or any other law, rule, or regulation.

19       52. Negotiated Settlement. The Settling Parties have negotiated this Consent  
20 Decree, and agree that it shall not be construed against the party preparing it, but shall  
21 be construed as if the Settling Parties jointly prepared this Consent Decree, and any  
22 uncertainty and ambiguity shall not be interpreted against any one party.

23       53. Modification of the Consent Decree. This Consent Decree, and any  
24 provisions herein, may not be changed, waived, discharged, or terminated unless by a  
25 written instrument, signed by the Parties and approved by the Court. Any request to  
26 modify any provision of the Consent Decree, including but not limited to any  
27 deadline(s) set forth herein, must be made in writing at least fourteen (14) days before  
28 the existing deadline(s) applicable to the provision(s) proposed to be modified.



1        54. Assignment. Subject only to the express restrictions contained in this  
2 Consent Decree, all of the rights, duties and obligations contained in this Consent  
3 Decree shall inure to the benefit of and be binding upon the Parties, and their  
4 successors and assigns. Defendant shall notify Plaintiff within ten (10) days of any  
5 assignment.

6        55. Force Majeure. Neither of the Parties shall be considered to be in default  
7 in the performance of any of their respective obligations under this Consent Decree  
8 when performance becomes impossible due to a Force Majeure event. A Force  
9 Majeure event is any circumstance beyond a Settling Party's control, including  
10 without limitation, any act of God, war, fire, earthquake, flood, windstorm, pandemic,  
11 public health crisis, or natural catastrophe; criminal acts; civil disturbance, vandalism,  
12 sabotage, or terrorism; restraint by court order or public authority or agency; or action  
13 or non-action by, or the inability of Defendant to obtain the necessary permits,  
14 authorizations or approvals from any governmental agency. A Force Majeure event  
15 shall not include normal inclement weather, economic hardship, inability to pay, or  
16 employee negligence. Any party seeking to rely upon this Paragraph to excuse or  
17 postpone performance shall have the burden of establishing that it could not  
18 reasonably have been expected to avoid the Force Majeure event and which by  
19 exercise of due diligence has been unable to overcome the failure of performance.  
20 The Parties shall exercise due diligence to resolve and remove any Force Majeure  
21 event.

22        56. Notice. All notices required herein or any other correspondence  
23 pertaining to this Consent Decree shall be, the extent feasible, sent via electronic mail  
24 transmission to the e-mail address listed below, or if electronic mail is not feasible,  
25 then by certified U.S. mail with return receipt, or by hand delivery to the following  
26 addresses:  
27  
28

If to Plaintiff:

Los Angeles Waterkeeper  
Barak Kamelgard  
Benjamin Harris  
Madeleine Siegel  
360 E 2<sup>nd</sup> St., Suite 250  
Los Angeles, CA 90012  
Email: [barak@lawaterkeeper.org](mailto:barak@lawaterkeeper.org)  
Email: [ben@lawaterkeeper.org](mailto:ben@lawaterkeeper.org)  
Email: [madeleine@lawaterkeeper.org](mailto:madeleine@lawaterkeeper.org)  
Phone: (310) 394-6162

With copies to:

Andrew L. Packard  
Law Offices of Andrew L. Packard  
245 Kentucky Street, B3  
Petaluma, CA 94952  
Email: [andrew@packardlawoffices.com](mailto:andrew@packardlawoffices.com)  
Phone: (707) 782-4060, Ext. 1.

If to Defendant:

Owens Corning  
Madeline Fleisher  
Senior Counsel, Environmental and  
Regulatory Law  
2790 Columbus Road  
Granville, Ohio 43023  
Email:  
[madeline.fleisher@owenscorning.com](mailto:madeline.fleisher@owenscorning.com)  
Phone: (857) 636-0371

With copies to:

Alan N. Bick  
Bick Law LLP  
520 Newport Center Dr., #750  
Newport Beach, CA 92660  
Email: [abick@bicklawllp.com](mailto:abick@bicklawllp.com)  
Phone: (949) 432-3501

Notifications of communications shall be deemed submitted three (3) days after the date that they are postmarked and sent by first-class mail, or immediately after acknowledgement of receipt via email by the receiving party. Any change of address or addresses shall be communicated in the manner described above for giving notices.


57. If for any reason the Federal Agencies should object to entry of this Consent Decree or to any portion of this Consent Decree or the Court should decline to approve this Consent Decree in the form presented, the Parties shall use their best efforts to work together to modify the Consent Decree within thirty (30) days so that it is acceptable to the Federal Agencies or the Court. If the Parties are unable to modify this Consent Decree in a mutually acceptable manner that is also acceptable to the Court, this Consent Decree shall immediately be null and void as well as inadmissible as a settlement communication under Federal Rule of Evidence 408 and California Evidence Code section 1152.

1 The Parties hereto enter into this Consent Decree and submit it to the Court for  
2 its approval and entry as a final judgment.

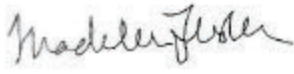
3 IN WITNESS WHEREOF, the undersigned have executed this Consent Decree  
4 as of the date first set forth below.

5 APPROVED AS TO CONTENT

6  
7 Dated: August 2, 2024

8 By:   
Bruce Reznik  
Executive Director  
Los Angeles Waterkeeper


9  
10 Dated: August 2, 2024

11 By:   
Madeline Fleisher  
Senior Counsel, Environmental and  
Regulatory Law  
Owens Corning

12  
13  
14 APPROVED AS TO FORM


15  
16 LAW OFFICES OF ANDREW L.  
PACKARD

17  
18 Dated: August 2, 2024

19 By:   
Andrew L. Packard  
Attorney for Plaintiff  
Los Angeles Waterkeeper

20  
21  
22 BICK LAW LLP

23  
24 Dated: August 2, 2024

25 By:   
Alan N. Bick  
Attorney for Defendant  
Owens Corning

1 **IT IS SO ORDERED.**  
2 **FINAL JUDGMENT**

3       Upon approval and entry of this Consent Decree by the Court, this Consent  
4 Decree shall constitute a final judgment between the Plaintiff and Defendant.  
5

6  
7 DATED: September 20, 2024

**JOSEPHINE L. STATON**

8  
9 

---

HON. JOSEPHINE L. STATON  
UNITED STATES DISTRICT JUDGE  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25  
26  
27  
28